

Theatrical Production Tax Credit

FREQUENTLY ASKED QUESTIONS

Q: What is the Theatrical Production Tax Credit?

A: The Theatrical Production Tax Credit is a refundable credit against Maryland State income tax of 25% of qualified production costs incurred within the State by Theatrical Production entities.

Q: How was the Theatrical Production Tax Credit created?

A: The Theatrical Production Tax was created by the passage of House Bill 641/Senate Bill 597 (Chapter 258/259 respectively) during the 2022 session of the Maryland General Assembly. This bill, entitled, Income Tax - Theatrical Production Tax Credit, went into effect on July 1, 2022. [You can view the bill by here.](#)

Q: Who is eligible to apply for the tax credit?

A: Qualified Theatrical Production entities are eligible to apply for the credit. A Theatrical Production entity (i.e., Theatrical Production company) must be approved by the Secretary of Commerce in order to qualify for the tax credit.

If you are unsure if your production company qualifies, please contact Robin Bailey via email at robin.bailey1@maryland.gov.

Q: Are there specific qualifications for the type of production that qualifies for the credit?

A: Yes. The production must be either a National Touring Production or a Pre-Broadway Production in order for the qualified Theatrical Production entity to qualify for a tax credit. Productions must be for-profit and be performed live in a Theatrical Production facility (i.e., theater.)

A National Touring Production:

- Must have at least two public performances; and
- After the production's final performance (see above) is performed for at least four weeks in at least four cities outside the State.

A Pre-Broadway Production;

- Must have at least eight public performances: and
- In the production's original or adaptive version:
 - 1) Has never been performed or has been performed on a limited basis in the immediately preceding five years, and

Applicants should be aware that all information submitted in or accompanying an application may be subject to the provisions of the Maryland Public Information Act (MD Code, General Provisions, Article, Title 4) and to the provisions of the MD Code, Tax General Article, §10-754.

- 2) Is being prepared exclusively at the qualified Theatrical Production facility for a presentation in the Broadway theater district within twelve months after the production's final performance in the State.

Q: What is a qualified Theatrical Production facility?

A: A qualified Theatrical Production facility is essentially a theater where live shows (plays, musicals, operas etc.) are performed.

Q: What if I operate a nonprofit Theatrical Production company?

A: You do not qualify for the tax credit. The Theatrical Production company must be for-profit in order to receive a credit.

Q: Is there a minimum amount of money that my production company must spend in Maryland on the production in order to qualify for the tax credit?

A: Yes. Estimated total production costs incurred in Maryland must exceed \$100,000 in order to qualify.

Q: How much is the maximum tax credit award amount?

A: The maximum allowable tax credit award cannot exceed \$2 million for a single Theatrical Production.

Q: I meet all the qualifications for the tax credit. How do I apply?

A: BEFORE THE START OF PRODUCTION, the owner of the qualified theatrical production entity or owner's designee needs to complete, sign and submit the [Application for Qualification](#) in order to PRE-QUALIFY for the tax credit: BEFORE THE FIRST REHEARSAL, the owner of the qualified theatrical production entity or owner's designee needs to complete, sign and submit the [Application Addendum](#).

Q: I submitted my application to pre-qualify for the tax credit. Will I receive acknowledgement that my application was received or that I am eligible for the tax credit?

A: Within 30 days after receiving a completed, application, the Department will issue a Letter of Qualification confirming the applicant is qualified to receive a tax credit. The Letter of Qualification states the maximum amount of tax credits available for the qualified Theatrical Production activity and the fiscal year from which the credits will be drawn.

Applicants who do not meet minimum statutory requirements or submit an incomplete or unsigned application will be notified that they are not eligible for a tax credit.

Q: I received a Letter of Qualification and am ready to start spending money on a Theatrical Production. Are there certain items I can buy or specific vendors I have to use?

A: Direct costs are for time or use in Maryland and must be provided by a qualified vendor. Expenditures that are eligible as direct costs are outlined in the Authorized Direct Costs list

(create link). This list is provided for guidance and is subject to interpretation and change by the Department at any time.

[Additional information regarding Authorized Direct Costs can be found here.](#)

Q: What if I want to use a non-qualified vendor?

A: Please complete the [Non-Qualified Vendor - Due Diligence Form](#).

Q: What are some examples of Authorized Direct Costs?

A: Examples of Authorized Direct Costs include costs incurred for:

- 1) Set construction and operation;
- 2) Special and visual effects;
- 3) Wardrobe, makeup and related services;
- 4) Sound, lighting, staging and related services and materials;
- 5) Salary, wages, and other compensation including related benefits, for work performed in Maryland, paid to persons employed in the Theatrical Production;
- 6) Advertising and public relations associated with the performance of the Theatrical Production in a qualified Theatrical Production Facility;
- 7) Rental of facilities in the State and equipment used in the State;
- 8) Leasing of vehicles;
- 9) Food and lodging; and
- 10) Travel expenses for bringing persons employed, either directly or indirectly, by the Theatrical Production to the State, but not including expenses for departing from the State.

Q: What types of expenses would not qualify as Authorized Direct Costs?

A: Authorized Direct Costs would not include:

- 1) Any salary, wages, or other compensation for personal services of an individual who receives more than \$100,000 per week in salary, wages, or other compensation for personal services in connection with a Theatrical Production;
- 2) Refundable security deposits; and
- 3) Purchase of real estate or vehicles.

Q: I have completed all the shows required by statute and am ready to receive my Tax Credit Certificate. What is the next step?

A: Within 180 days after the completion date established by the applicant and the Department of Commerce ("Department"), a Qualified Theatrical Production entity shall apply for a [Tax Credit Certificate](#) and submit the application to the Department along with ALL required final documentation. This timeline may be extended at the discretion of the Department based on facts and circumstances beyond the control of the qualified Theatrical Production entity.

The Department will review the Application for Tax Credit Certificate, all closing documentation, receipts, and the independent auditor's report for completeness, accuracy, and to confirm the total amount of direct costs. Based on the actual total of direct costs (*authorized costs only*) as established by the Department's review, the Department will issue a

Tax Credit Certificate to the theatrical production entity, which will not exceed the amount of tax credits specified in the original Letter of Qualification.

Please note that as part of the Application for Tax Credit Certificate, the theatrical production entity must certify that there are no amounts owed to any Maryland entity which provided goods or services in connection with the Theatrical Production activity. If amounts are outstanding, the Department will not issue a Tax Credit Certificate. A Tax Credit Certificate will not be issued until the Maryland Office of Tourism and Film receives confirmation that all outstanding amounts have been paid.

Q: I have my Tax Credit Certificate, how do I apply the credit to my taxes?

A: In order to claim the credit, the qualified Theatrical Production entity's owner, or designee or tax preparer must file the applicable Maryland state income tax return, must complete the Form 500CR section of the return, and must include a copy of the Tax Credit Certificate issued by the Department.

The credit is only available with electronically filed returns. Information regarding filing can be found on the [Comptroller of Maryland's website](#).

Q: I have additional questions. Who can I contact for assistance?

A: Please email Robin Bailey at robin.bailey1@maryland.gov or by phone at (410) 767- 6314 if you have additional questions.